

Message Text

PAGE 01 USUN N 00884 151439 Z

46

ACTION L-03

INFO OCT-01 EUR-25 IO-12 ADP-00 COA-02 EB-11 OIC-04

CIAE-00 DODE-00 PM-09 H-02 INR-09 NSAE-00 NSC-10

PA-03 RSC-01 PRS-01 SS-14 USIA-12 AF-10 ARA-11 EA-11

NEA-10 ACDA-19 AEC-11 AGR-20 CG-00 COME-00 INT-08

FMC-04 DOTE-00 JUSE-00 NSF-04 OMB-01 SCI-06 CEQ-02

AID-20 RSR-01 /257 W

----- 061716

R 1 51327 Z MAR 73

FM USMISSION USUN NY

TO SECSTATE WASHDC 7004

INFO AMEMBASSY LIMA

AMEMBASSY LONDON

AMEMBASSY OTTAWA

AMEMBASSY VALLETTA

UNCLAS USUN 0884

E. O. 11652: N/A

TAGS: PBOR, UN

SUBJ: LOS - SUBCOMMITTEE III, SECOND MEETING, 14 MARCH

1. CHAIRMAN (VANDER ESSEN) ANNOUNCED THAT AT EACH MEETING OF SUBCOMMITTEE THE CHAIRMAN OF WORKING GROUP WOULD REPORT ON PROGRESS OF WORK.

2. U. K. (JACKLING) REPORTED ON HISTORY AND RESULTS OF OCEAN DUMPING CONFERENCE, INCLUDING A REVIEW OF CONVENTION' S PROVISIONS.

3. CANADA(BEESLEY) INTRODUCED DRAFT ARTICLES FOR A COMPREHENSIVE MARINE POLLUTION CONVENTION (A/ AC.138/ SC. III/ L.28- POUCHED SEPARATELY). THE DRAFT ARTICLES SEEK TO EMPHASIZE THREE MAIN PRINCIPLES - (I) THE DUTY OF STATES NOT TO DAMAGE THE ENVIRONMENT OF OTHER
UNCLASSIFIED

PAGE 02 USUN N 00884 151439 Z

STATES OR AREAS BEYOND THE JURISDICTION OF STATES; (II) THE DUTY TO COMPENSATE FOR DAMAGE DONE; (III) THE DUTY TO

CONSULT IN THE EVENT OF POSSIBLE ENVIRONMENTAL IMPACT TO OTHERS. THE DRAFT FOLLOWS TWO BROAD THEMES: (I) A COMPREHENSIVE APPROACH TO MARINE POLLUTION WHICH SETS OUT THE FUNDAMENTAL RIGHTS AND DUTIES OF STATES AND WHICH CONTAINS A GENERAL COMMITMENT TO ELABORATE FURTHER NATIONAL AND INTERNATIONAL MEASURES ON THE SUBJECT; (II) TO SET THE GROUNDWORK FOR THE ACCOMMODATION OF THE CONFLICTING INTERESTS OF COASTAL STATES, MARITIME STATES, OTHER STATES AND THE INTERNATIONAL COMMUNITY. THE APPROACH IS DEPARTURE FROM LAISSEZ- FAIRE AND SEEKS TO GUARD AGAINST THE ABUSE OF RIGHTS OF STATES.

4. BEESLEY REVIEWED ARTICLES SERIATIM. THE FOLLOWING WAS OF NOTE. PREAMBLE MAY NOT BE STRICTLY NECESSARY BUT PROVIDES DESIRABLE BACKGROUND. HE HOPED IT DOES NOT LEAD TO MUCH DEBATE NOW. ARTICLE I (BASIC OBLIGATIONS TO PROTECT AND PRESERVE MARINE ENVIRONMENT) IS A DEPARTURE FROM THE LAISSEZ- FAIRE CONCEPT OF LOS. IT IS THE ORGANIC LINK BETWEEN THIS TREATY AND OTHER TREATIES AND NATIONAL MEASURES. IT STATES THE OVERRIDING OBLIGATION OF STATES. ARTICLE II (MEASURES FOR PREVENTION OF POLLUTION) IS A CONCENTRATED EFFORT AGAINST ALL SOURCES OF MARINE POLLUTION, WHICH SEEKS TO GUARD AGAINST ABUSE OF POWERS OF COASTAL STATES. ARTICLE III (DEVELOPMENT OF MEASURES) STRESSES THE OVERRIDING IMPORTANCE OF INTERNATIONAL RULES AND STANDARDS. ARTICLE VII (COMPENSATION FOR DAMAGE) - FUNDS FOR COMPENSATION COULD BE PROVIDED FROM, FOR INSTANCE, AND INTERNATIONAL FUND, AN INSURANCE SCHEME, OR DOMESTIC SOURCES WITH THE OBJECTIVE OF INSURING THAT COMPENSATION IS AVAILABLE. HE NOTED THAT U. S. AND U. S. S. R. SUGGESTED THEY COULD ACCEPT STRICT LIABILITY FOR THEIR VESSELS POLLUTING IN STRAITS, AND SAID THAT SUCH LIABILITY SHOULD NOT BE SO LIMITED. SIMILARLY IN ARTICLE VII 2 " RESOURCE " FOR OBJECTS (AS OPPOSED TO SUBJECTS) OF INTERNATIONAL LAW COULD INCLUDE A DOMESTIC FORUM, A FUND OR AN INSURANCE SCHEME. ARTICLE X (ENFORCEMENT) IS BASED ON THE THREE PRINCIPLES OF THE RIGHTS OF COASTAL STATES CONSIDERED BY THE INTERGOVERNMENTAL WORKING GROUP ON MARINE POLLUTION AND THE STOCKHOLM CONFERENCE. IT REFLECTS SANTO DOMINGO DECLARATION , UNCLASSIFIED

PAGE 03 USUN N 00884 151439 Z

YAONDE DECLARATION, ETC. HE NOTED THAT IF AGREEMENT IS REACHED ON PRESCRIPTIVE RIGHTS, IT IS EASIER TO AGREE ON ENFORCEMENT RIGHTS, EVEN IF THERE IS A RESIDUAL RIGHT OF PRESCRIPTION IN THE COAST STATE. HE FORESAW NO UNDUE INTERFERENCE WITH FLAG STATES AUTHORITY.

5. PERU SAID THAT THE OCEAN DUMPING CONFERENCE DID NOT COVER THE INTERESTS OF COASTAL STATES OR LESS- DEVELOPED COUNTRIES, WHICH EXPLAINS WHY ONLY 28 STATES SIGNED IT.

IT REFLECTS MAINLY THE VIEWPOINT OF DEVELOPMED COUNTRIES. THAT CONVENTION SHOULD NOT PREJUDICE THE LOS CONFERENCE BY CONFINING IT TO THE RESULTS OF THE LONDON CONFERENCE.

6. MALTA (PARDO) INTRODUCED DRAFT ARTICLES ON THE PRESERVATION OF THE ARINE ENVIRONMENT (NOT DISTRIBUTED). THE ARTICLES ARE BASED ON THE FOLLOWING PRINCIPLES (I) STATES MAY POLLUTE WITHIN THEIR JURISDICTION, (II) STATES MAY NOT CAUSE POLLUTION DABAGE BEYOND NATIONAL JURISDICTION, (III) IF STATES SO POLLUTE, THE INTERNATIONAL COMMUNITY HAS A CAUSE OF ACTION; (IV) STATES MAY NOT CUASE POLLUTION DAMAGE TO THE JURISDICTION OF ANOTHER STATE, (V) IMPARTIAL DISPUTE SETTLEMENT, (VI) INTERNATIONAL ARRANGEMENTS TO ELABORATE INTERNATIONAL STANDARDS AND RULES, TO MONITOR THE MARINE ENVIRONMENT, TO COORDINATE INTERNATIONAL EFFORTS IN ECOLOGICAL EMERGENCIES, AND TO ACCELERATE THE TRANSFER OF TECHNOLOGY REGARDING MARINE POLLUTION. THE ARTICLES ALSO CONSIDER INTERNATIONAL MARINE AND NATURE PARKS.

7. THE U. S. S. R. ANNOUNCED THAT THEY HAD, WITH THE UKRAINE, POLAND, AND BULGARIA SUBMITTED ARTICLES ON SCIENTIFIC RESEARCH, WHICH THEY WILL COMMENT UPON AT NEXT MEETING OF SUBCOMMITTEE. THEY ARE ALSO COMPLETING WORK ON ARTICLES ON MARINE POLLUTION. PHILLIPS

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